



**DIVISION OF  
FISHERIES & WILDLIFE**

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**MASS.GOV/MASSWILDLIFE**

**MA ENDANGERED SPECIES ACT (G.L. c.131A)**  
**AMENDMENT TO**  
**CONSERVATION AND MANAGEMENT PERMIT**

<b>DATE</b>	February 26, 2019
<b>CONSERVATION PERMIT No.:</b>	017-305.DFW
<b>NHESP FILE NO.</b>	16-35446
<b>PERMIT HOLDER</b>	Town of Plymouth
<b>ACTIVITY</b>	Use of Roads and Parking Lots in the Vicinity of Unfledged Piping Plover and Least Tern Chicks, Oversand Vehicle Use in the Vicinity of Unfledged Piping Plover and Least Tern Chicks, Plymouth Long Beach, Plymouth, MA

Pursuant to the authority granted in the Massachusetts Endangered Species Act ("MESA") (G.L. c. 131A) and its implementing regulations (321 CMR 10.23), the Director of the Massachusetts Division of Fisheries & Wildlife (the "Division") hereby amends Conservation and Management Permit 017-305.DFW (the "Permit"). The Permit and associated Town of Plymouth Certificate of Inclusion (the "COI") in the Massachusetts Habitat Conservation Plan (HCP) was originally issued to the Town of Plymouth (the "Permit Holder") on May 25, 2017 in accordance with the Endangered Species Act (ESA) for Piping Plover. The Permit authorizes the Taking of the State and Federally listed Piping Plover, which is listed as "Threatened" pursuant to the MESA the ESA arising out of the use of oversand vehicles and other recreational and beach operation activities described in documents attached hereto (the "Activities"), at Plymouth Long Beach, Plymouth, Massachusetts (the "Property"). This permit also authorizes the Taking of the state-listed Least Tern (*Sternula antillarum*), listed as Special Concern pursuant to MESA, associated with the aforementioned Activities.

This amendment to the Permit (the "Permit Amendment") is issued to the Permit Holder to increase the permitted Piping Plover Take exposures from three (3) to five (5). During a given beach season, a maximum of five (5) broods of Piping Plovers can be exposed to use of roads and parking lots and/or oversand vehicle (OSV) use in the vicinity of unfledged chicks, resulting in heightened risk of mortality. In addition, up to 20 unfledged Least Tern chicks could be exposed to oversand vehicle (OSV) use, and a small Least Tern colony will be exposed to beach access road traffic when unfledged chicks are present. However, intensive monitoring of chicks with the ability to temporarily halt traffic, a barrier designed to prevent Least Terns from entering the road, and a variety of other impact avoidance and minimization procedures required by way of this Permit and the HCP will significantly decrease risk. In order to offset additional Take exposures, the Permit Holder will continue to implement a selective predator management plan annually.

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Therefore, and by way of the Permit Amendment, the Permit Holder is proposing to implement a variety of impact avoidance and minimization measures, including but not limited to signage, traffic, staff training, enhanced chick monitoring, and a tern chick barrier to minimize the risk of direct mortality and implement a selective predator management program in order to reduce chick loss and increase production of fledglings.

The Director has determined that the revisions to the conservation plan proposed by the Permit Holder, as described herein, provide a long-term Net Benefit to the conservation of the affected state-listed species. All other provisions, terms and conditions of the Permit shall remain in effect and unchanged.

In accordance with the document submitted to the Division entitled:

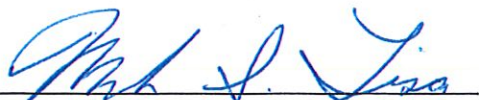
- “Massachusetts Habitat Conservation Plan for Piping Plover: Request for Amended Certificate of Inclusion” (December 2018) (the “Plan”; Attachment A).

incorporated by reference into this permit, and any other plans and documents referenced herein, this Permit Amendment is issued with the following conditions:

### **Amendment Conditions:**

1. This Permit Amendment authorizes the exposure of: up to five (5) Piping Plover broods to the Activities, Use of Roads and Parking Lots and Oversand Vehicle Use; up to twenty (20) unfledged Least Tern chicks to Oversand Vehicle Use; and a small colony of Least Terns to beach access traffic, subject to limitations described in Attachment A, and set forth in this Permit and the COI.
2. All Activities must be confined to the Town-owned Property and any other privately owned properties shown in Figure 1-3 of Attachment A, provided that the Permit Holder has provided in advance to the Division written permission from the owner for the Town to use the property to carry out activities authorized by and in accordance with this permit.
3. Other than the exceptions authorized by this Permit Amendment, the Permit Holder shall carry out beach use and management in compliance with the relevant State Guidelines and Federal Guidelines for management of recreational beaches with breeding plovers and terns effective during the term of the Permit.
4. This Permit authorizes only otherwise lawful activities. All activities carried out pursuant to this Permit must be carried out in accordance with applicable local, state, and federal statutes and regulations.
5. As set forth in the COI, all activities authorized by this Permit must be carried out in accordance with the Final Massachusetts Division of Fisheries & Wildlife Habitat Conservation Plan for Piping Plover (HCP), dated June 2016, and Incidental Take Permit (ITP) No. TE01281C-0, dated July 8, 2016. The COI, HCP and ITP are incorporated by reference into this Permit. By acceptance of this Permit, the Permit Holder acknowledges receipt of copies of the COI, HCP and ITP, official copies of which are located at the Division’s field headquarters, 1 Rabbit Hill Rd., Westborough, MA.
6. Division representatives shall have the right to enter and inspect the Property subject to this Permit at reasonable hours to evaluate permit compliance and require the submittal of any reasonable information not otherwise required by this Permit but deemed necessary by the Division to complete its evaluation.

7. Any change to the proposed Plan shall require the Permit Holder to inquire of the Division, in writing, whether the change is significant enough to require the filing of a new Conservation and Management Permit Application and/or require additional long-term Net Benefit for affected State-listed species. The Division retains the right to require the submittal of additional, reasonable information to evaluate the plan change.
8. Prior to implementing the Plan, the Permit Holder shall notify the Division in writing of the name, address, business and home telephone numbers of the manager responsible for compliance with this Conservation and Management Permit. The Permit Holder shall provide updated information in writing to the Division should a new or additional manager be hired after the Activity has commenced.
9. The Permit Holder shall notify the Division at least 24 hours prior to initiating any covered Activity affecting a new Piping Plover brood not previously exposed. 24 hour notice shall also be provided prior to carrying out the covered activity affecting Least Terns.
10. Prior to the implementation of the Plan or any covered activity in any given year, the Permit Holder shall provide the Division with proof that it has secured adequate funding to implement the annual requirements of the Plan consistent with the budget provided in the Plan.
11. Impact avoidance and minimization procedures to protect Piping Plovers and Least Terns shall be carried out for all 3 years and implemented in accordance with the Plan.
12. Interim and annual reporting shall be conducted in accordance with the Plan, including submittal of an annual report by October 15 of each year.
13. The Division shall be notified by October 15 each year, in the form of an NHESP Rare Animal or Plant Observation Form, of any state-listed species other than Piping Plovers and terns that are observed on the Property. Preferably, notification will be through the Division's data submittal tool, the Vernal Pool & Rare Species (VPRS) Information System. VPRS and our paper observations forms can be found at: <http://www.mass.gov/dfw/nhesp/vprs>.
14. Prior to the implementation of the covered activities in 2019, the Permit Holder shall provide an annual selective predator management scope of work in accordance with the plan set forth in Attachment A, developed by qualified experts, for review and approval by the Division. The Division-approved annual scope of work shall be carried out by the Permit Holder in advance of implementing the Activity in 2019. The Permit Holder shall be responsible for meeting the mitigation ratios and commitments set forth in Part 6 of Attachment A, and may be required by the Division to perform supplemental work in the following beach season to address year to year changes in the plover or tern breeding populations, as described in the HCP.
15. In accordance with the HCP, the Permit Holder must obtain written reauthorization from the Division to carry out covered activities prior to the 2019 beach season. No covered activities may be carried out in 2019 prior to receipt of written reauthorization. As set forth in the HCP, the Division may, in its sole discretion, reduce the allowable Take exposure for those years or decline to reauthorize any exposure.
16. A violation of any condition of the Permit, Permit Amendment, COI, HCP, or the ITP will result in an unauthorized Take pursuant to M.G.L. c. 131A or under the HCP or ITP may be subject to civil and or criminal penalties pursuant to M.G.L. c. 131A. In the event of such non-compliance, the Division may suspend, or revoke this Permit and the COI.



Mark S. Tisa, Director  
Massachusetts Division of Fisheries & Wildlife

On this 26th day of February 2019, before me, the undersigned notary public, personally appeared Mark S Tisa, Director, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.



Emily Melissa Holt, Notary Public  
My Commission expires: July 12, 2024

**Conservation Permit Amendment 017-305.DFW**

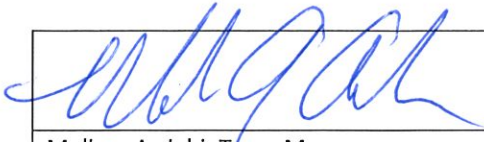
**Amended this 26<sup>th</sup> Day of February, 2019**



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ACKNOWLEDGEMENT AND ACCEPTANCE OF ALL TERMS OF THIS CONSERVATION PERMIT

The undersigned below agrees that commencement of any work authorized by and described in this Conservation and Management Permit constitutes acknowledgement and acceptance of all terms of this permit.



Melissa Arrighi, Town Manager  
Town of Plymouth

COMMONWEALTH OF MASSACHUSETTS

On this 4<sup>th</sup> day of March, 2019, before me, the undersigned notary public, personally appeared Melissa Arrighi, proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his/her knowledge and belief.

Notary Public



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My commission expires: 4/6/23

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## Distribution List

Melissa Arrighi, Town of Plymouth

Kerin McCall, Town of Plymouth

Plymouth Board of Selectmen

Plymouth Conservation Commission

DEP Southeast Regional Office, Wetlands Program

David Simmons, USFWS

Susi von Oettingen, USFWS

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